UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/316,651	05/21/1999	DR. NORM FAIOLA PH.D.	270P109	8093

20874 7590 08/21/2003

WALL MARJAMA & BILINSKI
101 SOUTH SALINA STREET
SUITE 400
SYRACUSE, NY 13202

EXAMINER
NGHIEM, MICHAEL P

ART UNIT	PAPER NUMBER
2863	

DATE MAILED: 08/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/316,651	Applicant(s) FAIOLA PH.D. ET AL.	
	Examiner Michael P Nghiem	Art Unit 2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 August 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *225-288 and 308-329* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *253-288* is/are allowed.

6)☒ Claim(s) *225-229,231-235,237-243,245-249,251,252,308-311,315,318,320-324,328 and 329* is/are rejected.

7)☒ Claim(s) *230,236,244,250,312-314,316,317,319 and 325-327* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

The Amendment filed on August 5, 2003 has been acknowledged.

Withdrawal of Allowability

1. The indicated allowability of claims 225-229, 231-235, 238-243, 245-249, 251, 252, 308-311, 315, 318, 320-324, 328, and 329 is withdrawn in view of the newly discovered reference(s) to Torimitsu (US 5,460,006) and Nam et al. (US 5,262,758). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 225-229, 231-233, 235, 238, 308-311, 315, 318, 320, 322-324, and 329 are rejected under 35 U.S.C. 102(b) as being anticipated by Torimitsu (US 5,460,006).

As best construed, Torimitsu discloses all the claimed features of the invention including:

- a monitoring system (Figs. 1, 3) monitoring food stored in at least one serving or storage container (10-1 – 10-4), said monitoring system comprising:

- a sensing subsystem (11) including at least one sensing device (15) generating at least one data stream (Figs. 2, 5), said at least one sensing device adapted to be disposed in said at least one serving or storage container storing food (Fig. 1);

- a processing subsystem (10) receiving and processing said at least one data stream (Fig. 1), wherein said at least one data stream includes data corresponding to an identifier (ID) of said at least one sensing device (Figs. 2, 5);

- said identifier is a device identifier (column 4, lines 23-26);

- said sensing subsystem includes a plurality of portable sensing devices (15, 16), wherein said plurality of portable sensing devices are disposed so that each of a plurality of serving or storage containers has disposed therein at least one of said plurality of portable sensing devices (Fig. 1);

- said sensing subsystem includes a plurality of sensing devices (15, 16) and a central transmitter (includes 22-24), wherein said central transmitter is in communication with each of said plurality of sensing devices, and wherein said central transmitter is further in communication with said processing subsystem (Fig. 1);

- said at least one sensing device comprises a temperature sensor (15, 16);

- said at least one sensing device comprises an airflow sensor (15, 16 detect internal temperature in 10-1);

- said at least one sensing device comprises first and second sensing devices (Fig. 5), each generating a data stream so that said at least one data stream includes at least one data stream from each of said first and second sensing devices, wherein said first and second sensing devices are configured so that at least one data stream from said first sensing device and at least one data stream from said second device include data corresponding to an identifier (Fig. 5);

- said at least one sensing device comprises first and second sensing devices, each generating a data stream so that said at least one data stream includes at least one data stream from each of said first and second sensing devices, wherein said processing subsystem is configured to determine whether a data stream received therein corresponds to a sensing device which is newly added to said system (devices are recognized by ID's, Figs. 2, 5);

- said at least one sensing device comprises first and second portable sensing devices, each generating a data stream so that said at least one data stream includes at least one data stream from each of said first and second sensing devices (column 4, lines 21-32), wherein said processing subsystem is configured to encode at least one data stream from said first sensing device and at least one data stream from said second sensing device in accordance with an encoding scheme (column 4, lines 34-44).

Claims 239-241 are rejected under 35 U.S.C. 102(b) as being anticipated by Nam et al. (US 5,262,758).

As best construed, Nam et al. discloses all the claimed features of the invention including:

- a monitoring system (Fig. 1) monitoring food stored in at least one serving or storage container (refrigerator), said monitoring system comprising:

- a sensing subsystem including at least one sensing device (10) generating at least one data stream (column 3, lines 36-37), said at least one sensing device adapted to be disposed in said at least one serving or storage container storing food (column 4, lines 24-25);

- a processing subsystem (13) receiving and processing said data stream (Fig. 1), wherein said processing subsystem is adapted to at least one of either date stamp or time stamp said data stream (column 3, lines 36-39).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 234 and 321 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torimitsu in view of Kashimoto et al. (US 6,137,095).

Torimitsu discloses all the claimed limitations as discussed above except said sensing device is adapted to wirelessly transmit said at least data stream.

Nevertheless, Kashimoto et al. discloses a sensing subsystem for wirelessly transmitting a data stream (column 13, line 66 – column 14, line 3) for the purpose of providing remote communication between two detached systems (column 13, lines 65-66).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide Torimitsu with a sensing system for wirelessly transmitting data as disclosed by Kashimoto et al. for the purpose of providing remote communication between two detached systems.

Claims 237, 239-243, 245-247, 249, 251, 252, and 328 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torimitsu in view of Nam et al..

Torimitsu discloses all the claimed limitations as discussed above except said processing subsystem is adapted to date stamp or time stamp said data stream.

Nam et al. discloses a processing subsystem (13) adapted to at least one of either date stamp or time stamp said data stream (column 3, lines 36-39) for the purpose of determining the time of alarm conditions.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide Torimitsu with a processing subsystem adapted to at least one of either date stamp or time stamp said data stream as disclosed by Nam et al. for the purpose of determining the time of alarm conditions.

Claim 248 is rejected under 35 U.S.C. 103(a) as being unpatentable over Torimitsu in view of Nam et al. as applied to claims 239-247, 249, 251, 252, and 328 above, and further in view of Kashimoto et al..

Torimitsu as modified discloses all the claimed limitations as discussed above except said sensing device is adapted to wirelessly transmit said at least data stream.

Nevertheless, Kashimoto et al. discloses a sensing subsystem for wirelessly transmitting a data stream (column 13, line 66 – column 14, line 3) for the purpose of providing remote communication between two detached systems (column 13, lines 65-66).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide Torimitsu as modified with a sensing system for wirelessly transmitting data as disclosed by Kashimoto et al. for the purpose of providing remote communication between two detached systems.

Allowabl Subject Matter

4. Claims 230, 236, 244, 250, 312-314, 316, 317, 319, and 325-327 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 253-288 are allowed.

Reasons For Allowance

6. The combination as claimed wherein said at least one sensing device is a cooking utensil incorporating a sensor (claim 230) or wherein said processing subsystem is configured to compress at least one data stream from said first sensing device and at least one data stream from said second sensing device (claims 236, 250, 327) or said at least one sensing device is a cooking utensil incorporating a sensor (claims 244, 312) or said processing subsystem is adapted to encrypt said data stream and write said encrypted data stream to said indexed hierarchical data storage structure indexed by said device identifier and by said date stamp data (claim 253) or said processing system is adapted to output on said display graphical indicia indicating each of said sensing devices which has been connected to said system (claims 261, 274, 285) or said at least one sensing device is provided by a probe having an elongated

hollow pin section, said elongated hollow pin section incorporating a sensor (claim 313) or said at least one sensing device is adapted to be inserted in food (claim 314) or said at least one sensing device comprises a seismic sensor (claim 316) or said at least one sensing device comprises a pressure sensor (claim 317) or said at least one sensing device comprises a weight sensor (claim 319) or said first and second sensing devices are configured so that at least one data stream from said first sensing device and at least one data stream from said second device include data corresponding to a battery power level (claims 325, 326) is not disclosed, suggested, or made obvious by the prior art of record.

Response to Arguments

7. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Contact Information

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nghiem whose telephone number is (703) 306-3445. The examiner can normally be reached on M-H from 6:30AM – 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached at (703) 308-3126. The fax phone numbers for

the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

MICHAEL NGHIEM
PRIMARY EXAMINER
Michael Nghiem

August 21, 2003